

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Katherine Gatsas,
Plaintiff

v.

Civil No. 05-cv-315-SM
Opinion No. 2008 DNH 152

Manchester School District a/k/a
Administrative Unit No. 37,
Defendant

O R D E R

Defendant moves for an award of attorneys' fees, as the prevailing party in this Title VII discrimination suit (documents no. 90, 100). See 42 U.S.C. § 2000e-5(k).


Plaintiff's case was adequate to avoid dismissal and judgment as a matter of law. While it qualified as among the weakest cases presented to a jury, given the evidence, still, plaintiff's claims were not "frivolous, unreasonable, or without foundation" at the time the complaint was filed. Tang v. Dep't of Elderly Affairs, 163 F.3d 7, 13 (1st Cir. 1998) (citing Christiansburg Garment Co. v. EEOC, 434 U.S. 412, 421 (1978)). Accordingly, as defendant is unable to establish the necessary prerequisite to an award, the court declines to award attorneys' fees to defendant as a prevailing party.

Defendant is, however, awarded its reasonable costs under 28 U.S.C. § 1920 and Fed. R. Civ. P. 54(d). Defendant's bill of costs (document no. 89) and plaintiff's objections are referred to the Clerk who shall tax reasonable costs as allowed by law.

Conclusion

Defendant's motion for attorneys' fees (document no. 90) is denied. Defendant's supplemental motion for attorneys' fees and costs (document no. 100) is granted in part and denied in part. Costs are allowed defendant.

SO ORDERED.


Steven J. McAuliffe
Chief Judge

August 22, 2008

cc: Leslie H. Johnson, Esq.
Kathleen C. Peahl, Esq.